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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,240	11/28/2005	Heinz Focke	Q87659	7061
23373 7590 03/31/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER DEMEREE, CHRISTOPHER R	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 03/31/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/533,240

**Applicant(s)**

FOCKE ET AL.

**Examiner**

CHRISTOPHER DEMEREE

**Art Unit**

3782

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

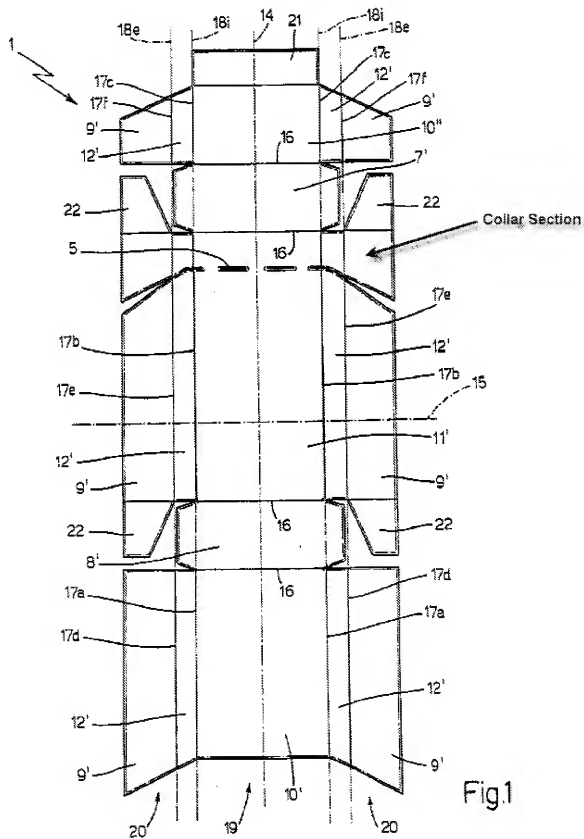
***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10, 12, 13 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brizzi (US 6755300 B2) in view Voelker (US 3240845 A).

Regarding claims 10, 12, 13 and 18, Brizzi teaches a hinge-lid box and the blank for making, made of cardboard or similar packaging material (Col 2 lines 35-38), in particular for cigarettes, comprising a box part (2), lid (4) and collar (see illustration below) and having longitudinal edges (13) and transverse edges (16) running crosswise thereto, characterized in that the longitudinal edges and/or transverse edges are configured by the deformation or embossing of the packaging material as an outwardly directed projection (see Fig. 3) having a round cross-section.



Brizzi lacks fold lines that project outward through deforming or embossing the package material. Voelker teaches forming the fold lines of a container through deforming or embossing; said folds comprising a semi-circular rounded projection (see Figures 1 and 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Brizzi's container's fold-lines to be made of an embossment forming a circular projection in order to create corners with increased strength (Voelker; Col 2 lines 33-35).

Regarding claim 16, Brizzi, as modified above, teaches a hinge-lid pack characterized in that for the configuration of the transverse edges as a projection or recess, corner tabs, namely base corner tabs (Brizzi; 22) and/or end corner tabs (Brizzi; 22) are configured with a smaller width such that the corner tabs can be positioned exclusively between the transverse edges (Brizzi; see Fig. 1) configured as a projection or recess. Examiner notes that the corner tabs are cut with a tapered shape that defines a width shorter than the side walls.

Regarding claim 17, Brizzi, as modified above, discloses the claimed invention except for defining the radius of the projection to be between 1.5 and 4 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the projection have a radius of 1.5 to 4 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

3. Claims 11, 14, 15 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brizzi in view of Byrne (US 941356 A).

Regarding claims 11, 14, 15, 19-21 and 23, Brizzi teaches a hinge-lid box and the blank for making, made of cardboard or similar packaging material (Col 2 lines 35-38), in particular for cigarettes, comprising a box part (2), lid (4) and collar (see illustration above) and having longitudinal edges (13) and transverse edges (16) running crosswise thereto, characterized in that the longitudinal edges and/or transverse edges are configured by the deformation or embossing of the packaging material as an outwardly directed projection (see Fig. 3) having a round cross-section. Brizzi lacks fold lines that recess inward through deformation or embossing the package material.

Byrne teaches a box wherein the corner construction comprises an inward recessing circular shape (see Fig. 4) formed by deformation or embossing. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to construct the corner folds with an inward circular recession in order to create a strong yet flexible fold (Byrne; Page 1 lines 91-99).

Regarding claim 22, Brizzi, as modified above, discloses the claimed invention except for defining the radius of the projection to be between 1.5 and 4 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the projection have a radius of 1.5 to 4 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-7 and 9 have been considered but are moot in view of newly submitted claims 10-23 and the new ground(s) of rejection set forth above.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER DEMEREE whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/  
Examiner, Art Unit 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782